

COUNTY OF HAWAII STATE OF HAWAII

Bill No. 513
(Draft 2)

ORDINANCE NO. 88 56

AN ORDINANCE AMENDING SECTION 25-88 (SOUTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-10a) AND AGRICULTURAL (A-5a) AT ONOULI 2ND, SOUTH KONA, HAWAII, COVERED BY TAX MAP KEY 8-1-05:2.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-88, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of properties described hereinafter as follows:

The district classification of the following area situated at Onouli 2nd, South Kona, Hawaii, shall be Agricultural (A-10a):

PARCEL 1:

Beginning at a point at the Southwest corner of this parcel of land, being also the Southeast corner of Lot 7-D-1, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU-OHAU" being 2700.14 feet South and 15,948.21 feet East and thence running by azimuths measured clockwise from True South:

1. 173° 48' 12" 535.15 feet along Lot 7-D-1 to a point;
2. 261° 40' 35" 2,173.50 feet along Lots B and C, being a portion of Lot 7-C, along the remainder of Royal Patent 628, Land Commission Award 925 to James Atkins to a pipe in concrete;

3. 346° 12' 20" 6,523.40 feet along Government land (TMK: 8-1-05:1) to a pipe in concrete;
4. 84° 35' 10" 2,258.50 feet along Government land (TMK: 8-1-05:1) to the point of beginning and containing an area of 30.07 acres, more or less. (Refer to Parcel 1 as shown on Exhibit "A".)

The district classification of the following area situated at Onouli 2nd, South Kona, Hawaii, shall be Agricultural (A-5a):

PARCEL 2:

Beginning at a pipe in concrete at the Southwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU-OHAU" being 2776.45 feet South and 15,143.01 feet East and thence running by azimuths measured clockwise from True South:

1. 174° 37' 00" 494.35 feet along the remainder of Lot 7-D (TMK: 8-1-18:1&3), along remainder of Royal Patent 628, Land Commission Award 925 to James Atkins to a point, passing over a pipe in concrete at 284.42 feet;
2. 261° 40' 35" 802.27 feet along Lot B, along the remainder of Royal Patent 628, Land Commission Award 925 to James Atkins to a point;
3. 353° 48' 12" 535.15 feet along Lot 7-D-2, along the remainder of Royal Patent 628, Land Commission Award 925 to James Atkins to a point;

4. 84° 35' 10" 808.81 feet along Government Land (TMK: 8-1-05:1) to the point of beginning and containing an area of 9.514 acres, more or less. (Refer to Parcel 2 as shown on Exhibit "A").

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. These changes in district classification are conditioned upon the following: (A) the applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval; (B) it shall be demonstrated to the satisfaction of the Planning Director that substantial agricultural activity is being conducted on the lands being considered for subdivision under this change of zone request within three years from the date of Final Subdivision approval. For the purpose of this condition "agriculture" shall be defined as the cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber; game propagation; raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use. An agricultural activity will be considered substantial: (1) if such activity is implementing a conservation program for the affected property(ies), as approved by the applicable soil and water conservation district directors and filed with the Soil Conservation Service; (2) if it provides a major source of

income to the person(s) who reside on the property; or (3) if the property is dedicated for Agriculture uses in accordance with applicable Tax Department procedures and that such agriculture dedication shall be made a deed covenant and duly recorded with the State Bureau of Conveyances and with a copy filed with the Planning Department; (C) subdivision plans shall be submitted to the Planning Department within one year from the effective date of the zone change. Final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval; (D) as preliminarily agreed to with the State Department of Land and Natural Resources, St. John's Road shall be provided with a minimum 10-foot wide pavement from the end of the paved portion of St. John's Road to the subject property, meeting with the approval of the Department of Land and Natural Resources. The required roadway improvements shall be constructed prior to receipt of Final Subdivision Approval. Further, as also agreed to with the Department of Land and Natural Resources, maintenance of the roadway shall be performed on at least a quarterly basis; (E) restrictive deed covenants for all of the lots shall be submitted to the Planning Department for review and approval prior to its submittal to the Bureau of Conveyances for recordation with final subdivision plat maps. These covenants shall prohibit ohana dwelling units; (F) a drainage system shall be installed meeting with the approval of the Department

of Public Works; (G) all other applicable laws, rules, regulations and requirements be complied with; (H) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the zone change. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required; and (I) an initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: 1) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; 2) granting of the time extension would not be contrary to the general plan or zoning code; 3) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; and 4) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year); and 5) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for

appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. Should the council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein may at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance.

SECTION 4. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 5. This ordinance shall take effect upon its approval.

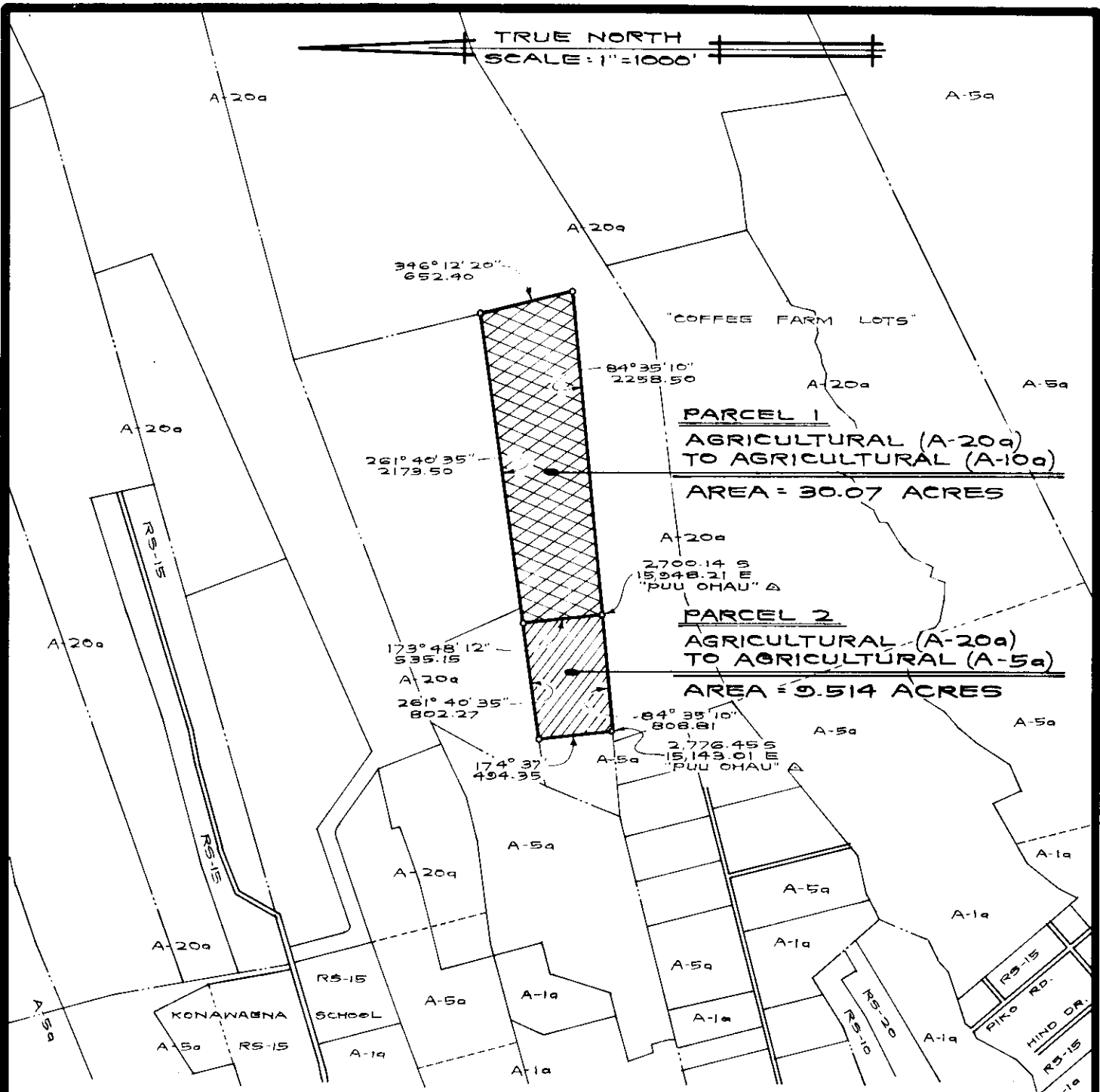
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: April 20, 1988
Date of 1st Reading: April 20, 1988
Date of 2nd Reading: May 4, 1988
Effective Date: May 12, 1988



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-88 (SOUTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-10a) AND AGRICULTURAL (A-5a) AT ONOULI 2ND, SOUTH KONA, HAWAII.

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK: 8-1-05: 2

FEB. 24, 1988

EXHIBIT "A"